

AMENDED IN SENATE JUNE 27, 1996
AMENDED IN ASSEMBLY MAY 14, 1996
AMENDED IN ASSEMBLY APRIL 18, 1996
AMENDED IN ASSEMBLY APRIL 8, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3305

Introduced by Assembly Members Setencich and Speier

February 23, 1996

An act to amend, add, and repeal Section 1102.6 of the Civil Code, and to add Article 2.5 (commencing with Section 115920) to Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, relating to swimming pools.

LEGISLATIVE COUNSEL'S DIGEST

AB 3305, as amended, Setencich. Swimming pool: safety: disclosures.

(1) Existing law requires a seller of residential property to make disclosures upon the transfer of that property, and sets forth the content and form of these disclosures.

This bill would, commencing July 1, 1997, add to the listing of required disclosures the presence or absence of a child-resistant barrier, as prescribed, for a pool, and a locking safety cover for a spa or hot tub.

(2) Existing law makes certain safety and sanitation requirements applicable to public swimming pools, including, but not limited to, the requirement that every person

operating or maintaining a public swimming pool do so in a sanitary, healthful, and safe manner.

Existing law designates the State Department of Health Services as having supervision over these requirements, and requires every health officer, within his or her jurisdiction, to enforce building standards relating to swimming pools, as defined.

This bill would, in addition, enact the Swimming Pool Safety Act to establish certain safety standards requiring swimming pool enclosures, safety pool covers, or exit alarms, as defined. This bill would make these standards applicable commencing January 1, 1998, to a private, single-family home for which a construction permit for a new swimming pool has been issued on or after January 1, 1998. This bill would also require any person entering into an agreement to build a swimming pool to give the consumer notice of the requirements of this bill. By increasing the enforcement duties of local health and safety officers, this bill would impose a state-mandated local program.

This bill would exclude hot tubs with certain safety covers, public swimming pools, as defined, and any pool within the jurisdiction of a political subdivision that adopts an ordinance with requirements at least as stringent as the requirements of this bill.

This bill would exclude facilities regulated by the State Department of Social Services from requirements of this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1102.6 of the Civil Code is
2 amended to read:



1 1102.6. (a) The disclosures required by this article
2 pertaining to the property proposed to be transferred are
3 set forth in, and shall be made on a copy of, the following
4 disclosure form:



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3 NOTE TO PRINTING OFFICE: INSERT
4 CAMERA-READY COPY HERE
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6 for Real Estate Transfer Disclosure Statement
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8 as printed on pages 2 to 6 of Chapter 817, 1994 Statutes.
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1 (b) This section shall become inoperative on July 1,
2 1997, and, as of January 1, 1998, is repealed, unless a later
3 enacted statute, that becomes operative on or before
4 January 1, 1998, deletes or extends the dates on which it
5 becomes inoperative and is repealed.

6 SEC. 2. Section 1102.6 is added to the Civil Code, to
7 read:

8 1102.6. (a) The disclosures required by this article
9 pertaining to the property proposed to be transferred are
10 set forth in, and shall be made on a copy of, the following
11 disclosure form:

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3 NOTE TO PRINTING OFFICE: INSERT
4 CAMERA-READY COPY HERE
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(b) This section shall become operative on July 1, 1997.

SEC. 3. Article 2.5 (commencing with Section 115920 is added to Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, to read:

Article 2.5. The Swimming Pool Safety Act

115920. This act shall be known and may be cited as the Swimming Pool Safety Act.

115921. As used in this article the following terms have the following meanings:

(a) "Swimming pool" or "pool" means any structure intended for swimming or recreational bathing that contains water over 18 inches deep. "Swimming pool" includes in-ground and above-ground structures and includes, but is not limited to, hot tubs, spas, portable spas, and nonportable wading pools.

(b) "Public swimming pool" means a swimming pool operated for the use of the general public with or without charge, or for the use of the members and guests of a private club. Public swimming pool does not include a swimming pool located on the grounds of a private single-family home.

(c) "Enclosure" means a fence, wall, or other barrier that isolates a swimming pool from access to the home.

(d) "Approved safety pool cover" means a manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard F1346-91.

(e) "Exit alarms" means devices that make audible, continuous alarm sounds when any door or window, that permits access from the residence to the pool area that is without any intervening enclosure, is opened or is left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building.

115922. Commencing January 1, 1998, except as provided in Section 115925, whenever a construction permit is issued for construction of a new swimming pool at a private, single-family home it shall be equipped with

1 at least one of the following ~~child-resistant barriers~~ *safety*
2 *features*:

3 (a) The pool shall be isolated from access to a home by
4 an enclosure that meets the requirements of Section
5 115923.

6 (b) The pool shall be equipped with an approved
7 safety pool cover.

8 (c) The residence shall be equipped with exit alarms
9 on those doors providing direct access to the pool.

10 (d) All doors providing direct access from the home to
11 the swimming pool shall be equipped with a self-closing,
12 self-latching device with a release mechanism placed no
13 lower than 54 inches above the floor.

14 (e) Other means of protection, if the degree of
15 protection afforded is equal to or ~~grater~~ *greater* than that
16 afforded by any of the devices set forth in subdivisions (a)
17 to (d), inclusive, as determined by the building official of
18 the jurisdiction issuing the applicable building permit.

19 115923. An enclosure shall have all of the following
20 characteristics:

21 (a) Any access gates through the enclosure open away
22 from the swimming pool, and are self-closing with a
23 self-latching device placed no lower than 60 inches above
24 the ground.

25 (b) A minimum height of 60 inches.

26 (c) A maximum vertical clearance from the ground to
27 the bottom of the enclosure of two inches.

28 (d) Gaps or voids, if any, do not allow passage of a
29 sphere equal to or greater than four inches in diameter.

30 (e) An outside surface free of protrusions, cavities, or
31 other physical characteristics that would serve as
32 handholds or footholds that could enable a child below
33 the age of five years to climb over.

34 115924. Any person entering into an agreement to
35 build a swimming pool shall give the consumer notice of
36 the requirements of this article.

37 115925. The requirements of this article shall not
38 apply to any of the following:

39 (a) Public swimming pools.

1 (b) Hot tubs or spas with locking safety covers that
2 comply with the American Society for Testing
3 Materials-Emergency Performance Specification
4 (ASTM-ES 13-89).

5 (c) Any pool within the jurisdiction of any political
6 subdivision that adopts an ordinance for swimming pool
7 safety that includes requirements that are at least as
8 stringent as this article.

9 (d) An apartment complex, or any residential setting
10 other than a single-family home.

11 115926. This article does not apply to any facility
12 regulated by the State Department of Social Services
13 even if the facility is also used as the private residence of
14 the operator. Pool safety in those facilities shall be
15 regulated pursuant to regulations adopted therefor by
16 the State Department of Social Services.

17 SEC. 4. No reimbursement is required by this act
18 pursuant to Section 6 of Article XIII B of the California
19 Constitution because a local agency or school district has
20 the authority to levy service charges, fees, or assessments
21 sufficient to pay for the program or level of service
22 mandated by this act, within the meaning of Section 17556
23 of the Government Code.

24 Notwithstanding Section 17580 of the Government
25 Code, unless otherwise specified, the provisions of this act
26 shall become operative on the same date that the act
27 takes effect pursuant to the California Constitution.